

FDI Guide
Lithuania

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Foreword: A specific chapter is dedicated to the new Regulation (EU) 2019/452 of 19 March 2019 creating a framework for the screening of foreign direct investment (FDI) into the European Union through a combination of: (1) mandatory information by the Member State receiving a filing under its FDI regime of all other Member States and the European Commission; and (2) the possibility for the latter to make comments or issue opinions to the former.

	Topic	Explanation/Description of what is expected	Lithuania
1.	Principle	Describe if the FDI regime is built by exception to a principle of freedom of investment or whether restrictions to transferring funds to and from your country apply generally.	<p>Regime by exception</p> <ul style="list-style-type: none"> • The Maastricht Treaty applicable to Lithuania guarantees the principle of free movement of capital between Member States of the EU and third countries. • In accordance with Article 65 of the Treaty on the Functioning of the EU (TFEU), exceptions nevertheless exist, including, inter alia, measures grounded on public policy or public security. • Based on these principles, the FDI regime in Lithuania focuses on screening transactions and investments relating to certain sensitive sectors, identified as areas of strategic importance to the national security interests of Lithuania. The Lithuanian FDI regime is laid out in the Law on the Protection of the Most Important Objects for Ensuring National Security of the Republic of Lithuania (the 'Law') and Rules for the Procedure of the Commission for the Protection of Objects Important for Ensuring National Security (the 'Rules').
2.	Legal regime Authority(ies) in charge	Describe source(s). Name of authority in charge of applying the FDI rules (Minister/Agency/...).	<p>The Government of the Republic of Lithuania (the 'Government') is in charge of applying FDI rules.</p> <p>The competent authority responsible for screening investors in Lithuania is the Commission for Coordination of Protection of Facilities of Importance to Ensuring National Security of Lithuania (the 'Commission'), which was set up pursuant to the Law specifically for screening investors.</p>
3.	3Transactions that may be subject to FDI • Type • Materiality thresholds	Describe the nature of the transactions that may be subject to FDI rules. In the case of share acquisition, specify if the FDI regime is triggered only beyond a certain	<p>Transactions that may be subject to FDI are transactions made by an investor from the Republic of Lithuania, a foreign investor or an investor from a third country (types of investors are described in more detail below) which:</p> <ol style="list-style-type: none"> 1. seeks to acquire or has acquired an interest in shares or convertible bonds of an undertaking of national security importance, the legal form of which is a joint-stock company or private joint-stock company;

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	<ul style="list-style-type: none"> Rights of evocation 	<p>threshold and, if so, describe such a threshold.</p>	<ol style="list-style-type: none"> seeks to acquire or has acquired the right to exercise the immaterial rights attached to a stake in an undertaking specified in the Law as being important for national security by means of a voting rights transfer agreement; seeks to acquire or has acquired the rights provided for in the Law over facilities and assets of national security importance or assets that are specified in the security plan of an undertaking of national security importance and the transfer of which is subject to the approval of the Government; seek to acquire or has a acquired securities of a legal person operating or to be established in a sector of the economy that is of strategic importance for national security and which confer the right to vote at a meeting of the participants of a legal person operating or to be established in a sector of the economy that is of strategic importance for national security, or securities that may be exchanged (converted) into securities conferring the right to vote at a meeting of the participants of a legal person as referred to in this item; by acquiring property or otherwise intending to carry out activities in the territory of the protection zone established in Article 4 of the Law, or who holds or seeks to acquire securities of a legal person operating or being established in the territory of the protection zone established in Article 4 of the Law, which confer the right to vote at the meeting of the participants of such a legal person, or which may be converted (exchanged) into securities conferring the right to vote at the meeting of the participants of a legal person referred to in this paragraph; and seek to carry out or carries out activities in a sector of the economy that is of strategic importance for national security. <p>Essentially, all M&A transactions are covered by the FDI regime if the legal person (target) in question meets the criteria of national importance described in the Law.</p> <p>The threshold triggering the screening of the investor depends on the type of target company in question.</p> <p>Companies explicitly listed in the Law that are deemed of utmost importance to national security interests of Lithuania are divided into three categories (the ‘Special Categories’).</p> <p>These Special Categories include certain companies where the state or municipality has an ownership interest and several other companies where the state or municipality does not have an ownership</p>

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			<p>interest, but which are nevertheless, for other reasons, deemed to be of strategic importance to the national security interests of Lithuania.</p> <p>Screening of investors is triggered by the acquisition of at least 25 per cent or 33.33 per cent of voting rights depending on the exact Special Category to which the target company belongs.</p>
		<p>Are indirect acquisitions of assets or shares in the jurisdiction subject to the relevant FDI rules (acquisitions in a parent company outside the jurisdiction)?</p> <p>Are share transfers involving a group company internal restructuring covered?</p> <p>Are greenfield investments covered?</p>	<p>If the shareholder of an entity, deemed to be of national security importance (the subject), is a company that holds over one-third of the voting shares in the subject and a change of control over the company is planned/foreseen, an application for the assessment of compatibility with national security interests must be lodged with the Commission.</p> <p>Therefore, change of control over the parent company or shareholder (holding a sufficient number of voting shares in the subject) shall fall within the scope of the FDI rules and be subject to the Commission's assessment and clearance.</p> <p>Share transfers involving group company restructuring, reorganisation or liquidation are also within the screening scope.</p>
		<p>Does the FDI authority (or another type of governmental authority) have a power of evocation/ex officio/call-in powers? If so, please describe.</p>	<p>Screening can be initiated not only by the investor's application but also by the following authorities:</p> <ol style="list-style-type: none"> 1. the Government; 2. a minister; 3. the Commission; 4. national security institutions as defined in the National Security Framework Law; 5. the Bank of Lithuania; 6. the Radio and Television Commission of Lithuania for persons intending to acquire or who have acquired a licence for broadcasting and/or retransmitted content, in the exercise of the rights and duties established for it in the Law on Public Information of the Republic of Lithuania; 7. the State Energy Regulatory Council;

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			<ol style="list-style-type: none"> 8. an executive body of the state or a municipality, which is the manager of the shares of a joint stock company, or a private joint stock company owned by the state, or a municipality (to which these shares have been transferred for management by the right of entrustment), or which implements the rights and obligations of the owner of a state or municipal enterprise; 9. the executive authority of the municipality in whose territory the investor seeks to carry out activities or acquire property within the protection zone; and 10. an undertaking important for national security.
4.	<p>Sectors falling under the FDI scope</p>	<p>Describe the economic sectors for which the FDI regime will apply. If relevant, explain for each sector the level of flexibility that the authority may apply (or not) in evaluating whether FDI rules should apply.</p> <p>Are there sector-specific stricter limits on foreign investment that will apply, such as a lower threshold of investment by foreign interests or sectors for which no foreign investment is possible? If yes, which sectors (eg, nuclear energy/agriculture)?</p>	<p>The Law lists the following industry sectors as those deemed of strategic importance to national security interests of Lithuania (the ‘Strategic Sectors’):</p> <ol style="list-style-type: none"> 1. energy; 2. transport; 3. IT, telecoms and other high technologies; 4. finance and credit; and 5. military equipment. <p>If the target company operates in a Strategic Sector, any investment regarding the acquisition of 25 per cent or more voting rights may trigger screening.</p> <p>The Government further identifies and specifies in a separate legal act that exact economic activities are considered to be part of the economic sectors strategically important for national security. The list (below) is adopted by the Government (the ‘List’) and contains an exhaustive list of specific activities.</p> <p>Energy</p> <ul style="list-style-type: none"> • Production of refined petroleum products; • collection and management of radioactive waste and used nuclear fuel; • electricity generation, if at least one electricity generating installation of the person performing electricity generation has a capacity of 100 megawatts or more or the total capacity of the electricity generating installations operated by that person is 100 megawatts or more;

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			<ul style="list-style-type: none"> • electricity transmission; • distribution of electricity to at least 10,000 customers; • wholesale of electricity; electricity supply to at least 1,000 non-household customers and/or at least 10,000 household customers; • dispatch management of the electricity system of the Republic of Lithuania; dispatch management of distribution grids; • natural gas transportation via natural gas transmission system (high pressure pipelines and equipment); • natural gas transportation via natural gas distribution system for at least 10,000 consumers; • the supply activities performed by the designated supplier provided for in the Law on the Liquefied Natural Gas Terminal of the Republic of Lithuania; • accumulation and management of oil products and oil state storage; • liquefied natural gas terminal activities; • supply of thermal energy to at least 10,000 customers; • operation and decommissioning of a nuclear facility; and • operation of oil product terminals. <p>Transport</p> <ul style="list-style-type: none"> • Construction of roads and railways of state importance; • construction of bridges and tunnels; • air transport service activities; • repair and maintenance of aircraft and spacecraft; • geographical and cartographic information activities; • repair and maintenance of marine vessels; • management, use and disposal of public railway infrastructure;

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			<ul style="list-style-type: none"> • management, use and disposal of railway service facilities owned by the Republic of Lithuania; • passenger and freight transport by rail; • transportation of non-standard/oversized cargo by road, rail, sea and air; • warehousing and storage of fuel, food and medicine in distribution logistics warehouses; • rental of containers and mobile platforms; and • sea cargo handling activities in Klaipeda State Seaport. <p>IT/technology, media and telecoms (TMT)</p> <ul style="list-style-type: none"> • Manufacture of electronic components; • manufacture of assembled electronic panels; • manufacture of computers and external equipment; • manufacture of communication equipment; • manufacture of Global Positioning System (GPS) devices; • installation of antennas and communication systems; • wholesale of information and communication technology (ICT) equipment; • other software publishing; • wired communication service activities; • wireless communication service activities; • satellite service activities; • data processing, hosting and related activities; • internet gateway service activities; • broadcasting of radio programmes; and • television broadcasting.

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			<p>Finance and credit</p> <ul style="list-style-type: none"> • Acceptance of deposits and other repayable funds; • payment services; • issuance of electronic money; • investment services; • activities of a regulated market operator; • management of investment funds, investment companies, pension funds or investment companies with variable capital; • activities of the central securities depository; and • insurance and reinsurance activities. <p>Military equipment</p> <ul style="list-style-type: none"> • Manufacture, sale, maintenance and repair of military equipment. <p>Investment into entities carrying out activities related to the activities set out in the List or entities otherwise matching the description outlined above triggers the screening procedures.</p>
5.	Qualified investors	Describe the main characteristics of investors that fall under the FDI regime and if there are nuances depending on their origin (eg, EU v not EU).	<p>Pursuant to the Law, investors may be natural persons, private and public legal entities, or other organisations that do not threaten national security interests.</p> <p>Investors are divided into two categories:</p> <ol style="list-style-type: none"> 1. Investor of the Republic of Lithuania or a foreign investor: a citizen of the Republic of Lithuania or of another Member State of the EU, the North Atlantic Treaty Organization, the European Free Trade Association and/or the Organisation for Economic Co-operation and Development, or a legal person or other organisation established in these states, unless a quarter or more of the voting rights at the general meeting of members of such a legal person or other organisation are held by a third country, its citizens or legal persons controlled by it. 2. Third-country investor: a citizen of a third country or a legal person or other organisation established in a third country, as well as a legal person or other organisation established in a Member State of the EU, the North Atlantic Treaty Organization, the European Free Trade

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			<p>Association and/or the Organisation for Economic Co-operation and Development, where a quarter or more of the voting rights at the meeting of members are held by a third country, its citizens or by legal persons or other organisations controlled by the third country.</p> <p>A <i>third country</i> is defined as a country not belonging to the EU, the North Atlantic Treaty Organization, the European Free Trade Association and/or the Organisation for Economic Co-operation and Development.</p>
6.	<p>Procedure</p> <p>6.1 Before or post-closing filing</p>		<p>As a principle, if a planned investment falls within the scope of the FDI rules, clearance is required (and must be obtained) prior to the completion of the investment in the targeted entity.</p> <p>The requirement to notify the Commission works in a twofold manner depending on whether the target company belongs to a: (1) Special Category; or (2) operates in a Strategic Sector.</p> <ol style="list-style-type: none"> 1. If the target company belongs to a Special Category, the investor has a duty to notify the Commission about the investment in the event that the investor acting alone or jointly with other investors seeks to enter into any transaction that reaches the specific participation threshold set out in the Law, which is either 25 per cent or 33.33 per cent of voting rights depending on the exact Special Category to which the target company belongs. 2. If the target company operates in a Strategic Sector, the investor has a duty to notify the Commission about the investment into a company operating in a Strategic Sector if the investor acting alone or jointly with other investors seeks to enter into any transaction that reaches the threshold of 25 per cent of voting rights.
7.	6.2 In the case of pre-closing filing	Mandatory/optional filing	<p>It is mandatory to file a request for clearance before the completion of the investment within the scope of the FDI rules.</p> <p>Foreign investment clearance should therefore be a closing condition precedent to the completion of the transaction.</p> <p>Investors must also report amendments to transactions (other than those of a purely technical (editorial) nature) where the value of the transaction exceeds ten per cent of the company's annual revenue for the previous financial year.</p> <p>Applications for clearance on contemplated transactions need not be submitted to the Commission if a decision is taken in accordance with the procedure established by the Law, confirming that the</p>

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			transaction is in the interests of national security. In such a case, other comparable transactions on an equivalent object with the same counterparty are deemed to be compliant with the interests of national security, unless there is new evidence on the compatibility of the transaction or the counterparty (third party) with national security interests.
8.	6.3 In the case of post-closing, what are the powers of the authority?		Not applicable (pre-filing is mandatory).
9.	6.4 Advance ruling	Explain if it is possible to obtain a pre-ruling from the authority as to whether the transaction falls under the FDI rules and, as the case may be, describe the process to be followed.	Not applicable.
10.	6.5 Timing of various steps (i) Filing	How much lead time is required?	The Commission must adopt a conclusion on the investor's conformity to national security interests not later than within 20 calendar days as of the date the screening was launched (this term may be extended up to five calendar days but only once). If within this term the Commission decides that the investor does not conform to national security interests, the decision is then submitted to the Government, which has additional 14 calendar days to adopt a final decision.
11.	(ii) Review by the authority	Specify the timing available to the authority; indicate if the timeframe is mandatory or not and describe what other	Upon receiving the application request and documents: 1. The Commission contacts the relevant authorities, ¹ requesting that they issue their assessment of the investor/transaction (within one business day).

¹ The relevant authorities are the Department of State Security of the Republic of Lithuania, the Ministry of Foreign Affairs of the Republic of Lithuania, the Ministry of the Interior of the Republic of Lithuania, the Police Department under the Ministry of the Interior of the Republic of Lithuania, the Prosecutor General's Office of the Republic of Lithuania and any other institutions deemed relevant for the assessment by the decision of the Commission.

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		flexibility may exist de facto or <i>de jure</i> .	<p>2. The Commission forwards the documents to the relevant authorities to evaluate whether an investigation on the investor's compliance with national security interests should be initiated (within one business day);</p> <p>(i) Investigation: If a decision to initiate an investigation is adopted by the relevant authorities, the Commission is notified of such a decision within eight business days.</p> <ul style="list-style-type: none"> • The Commission must notify the applicant on the decision to initiate the investigation no later than within ten business days from receiving the application. • The Commission then may request the investor to supply additional required information within ten business days. • The relevant authorities then submit their conclusions on the investor's/transaction's compliance with national security interests no later than within 15 business days from the receipt of the request to submit the conclusions on the investor's compliance with national security interests to the Commission. If the relevant authorities do not submit their conclusions within the specified time limit, the authorities shall be deemed to have no information on the investor's/transaction's compliance with the Law. The relevant authorities may request that the Commission extends the term for the provision of decisions by up to five business days. <ul style="list-style-type: none"> - If the Commission receives a decision from the relevant authorities, stating that the investor is not in compliance with the criteria set out in the Law, the Commission holds a hearing on the matter. - If, following the hearing, the Commission adopts a decision that the investor/transaction is not in compliance with national security interests, a legal basis for such a decision must be provided. - If the Commission does not receive a decision from the relevant authorities stating that the investor is not in compliance, the Commission adopts its decision on the investor's compliance without holding a hearing. - The decision must also state that it is not a final decision on the investor's/transaction's compatibility and that the final decision on the investor's/transaction's compatibility with national security interests will be adopted by the Government.

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			<ul style="list-style-type: none"> - The Government shall then adopt the final decision within 14 days. - The Government may adopt a decision stating that the contemplated transaction/investment does not comply with national security interests, providing a justification for such an assessment. Then, such a transaction may not be entered into until the issues identified in the decision are eliminated (if these can be eliminated) and the Government adopts a new decision, confirming that the transaction is compliant with national security interests. <p>(ii) No Investigation: If the Commission does not receive notification from the relevant authorities on the initiation of an investigation on the investor within eight business days, it may be assumed that such an investigation is not required.</p> <ul style="list-style-type: none"> • The Commission must then inform the investor of the decision within two business days. • If additional documents or information are needed for the Commission to adopt the decision, the applicant must provide such additional information within ten business days.
12.	(iii) Negotiation with the authority	Describe how to handle the relationship with the authority, including when approval is subject to commitments from, or conditions imposed on, the investor.	<p>Upon the investor submitting the documents to the Commission, the Commission either:</p> <ul style="list-style-type: none"> • issues an affirmative decision (in this case, further communication does not normally take place, unless additional information is necessary for the assessment); or • notifies the investor of the initiated investigation and requests further documentation and/or replies to the questions raised. Communication and negotiations then normally take place via official requests for information and official replies to the said request. In some cases, some communication may take place over email or phone.
		Are there any guidelines issued by the authority?	No guidelines are currently available.
13.	(iv) Filing fees	Is there a filing fee?	No filing fees are in place.

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14.	(v) Information needed for filing	<p>What information about the investor is required? Are there any thresholds for the identity and nationality of minority passive shareholders? Information on other FDI approvals by other authorities?</p>	<p>The following documents must be provided to the Commission:</p> <ul style="list-style-type: none"> • a list of the investor’s shareholders; • voting agreements and/or agreements for the transfer of voting rights (if any); • data on all persons acting in concert (name of a legal person; name and surname of a natural person; and basis for contractual operation); • copies of the documents of incorporation of the legal person (and, if necessary, also of persons acting in concert) certified by the general manager of the legal person, an extended extract from the Register of Legal Entities with history (if the investor is a legal person) and/or copies of identity documents (if the investor is a natural person); • if the investor is a legal person, copies of the documents of incorporation (if the final owners are legal persons) and/or copies of identity documents (if those owners are natural persons) of its (if necessary, also persons acting in concert) final owners who directly and/or indirectly control the investor; • if the application is submitted by the investor’s representative, a document confirming the authorisation of the representative; and • notice containing additional required data: <ul style="list-style-type: none"> - the details of the investor (name, surname, citizenship, place of residence or entity name, legal entity code, country of establishment and business address); - planned/ongoing activities; - code of the investor’s planned/performed activities (according to the <i>Nomenclature des Activités Économiques dans la Communauté Européenne</i> (NACE) classifications); - information on the amount of share capital and voting rights to be acquired, as well as whether the share of the share capital and/or voting rights to be acquired will give the right to control the activities of the legal entity; - if the investor is a legal entity, details of its (and, where applicable, persons acting in concert) final owners who directly and/or indirectly control the investor; name and address of the final owner (if the final owner is a natural person) or name and registration address (if the final owner is a legal person); the share of authorised capital

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			<p>controlled by the final owner (percentage); and data on the enterprises owned by the final owner, as well as the enterprises of which the owner is a participant;</p> <ul style="list-style-type: none"> - countries in which the investor (and, where applicable, persons acting in concert) operates (indicate the names of the countries and the names of legal entities and/or branches operating in other countries); - data on the investor's experience (and, where applicable, persons acting in concert) in carrying out activities in other countries, business cooperation and partnership relations with entities of other countries; - indication of whether the investor has concluded contracts and/or agreements with third country authorities; - if the investor is a legal entity, data on the investor's annual turnover in euro; - if the investor is a legal entity, details of the total number of employees; - if the investor's securities are admitted to trading on a regulated market or a multilateral trading facility (MTF), the country/ies in which the securities are admitted to trading on a regulated market or an MTF, the abbreviation or code identifying the security; - approximate value of the investment; - financing of the investment and its source; - the planned implementation date of the investment; and - other information deemed necessary by the investor.
15.	(vi) Final decision	Indicate if the final decision is to be issued within a set timeframe and what are the consequences if the authority does not issue a decision within the set timeframe.	<p>As noted in items 10 and 11 above, the Commission must adopt a decision not later than 20 calendar days as of the date the screening was launched (which may be extended by up to five calendar days).</p> <p><i>If the Commission concludes that the investor complies with the interests of national security of the Republic of Lithuania, this conclusion is considered as the final decision.</i></p> <p><i>If the Commission concludes that the investor does not comply with national security interests, the Commission refers its conclusion to the Government. Following the referral, the Government adopts</i></p>

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			<i>the final decision</i> on whether or not the investor meets national security interests within 14 calendar days.
16.	Conditionality of approval (i) Type of conditions or commitments	Describe the type of conditions or commitments to which FDI approval may be subject. Specify their usual duration. Specify what powers the authority may exercise to control/monitor the satisfaction of such conditions/commitments.	<p>If the Commission makes recommendations to the investor, pursuant to which the investor’s intended transactions or actions would not pose a risk to national security – and it is established that these recommendations have not been implemented – the investor is deemed as posing a risk to national security interests or does not comply with national security interests.</p> <p>The Law does not set out conditions or commitments that must be met.</p>
17.	(ii) Level of discretionary power of the authority	Indicate if it exists and, if so, describe exceptional circumstances that have led to the use of such discretionary power.	<p>There is no discretion to review transactions that would not meet the conditions set by Law if the final decision is made by the Government of the Republic of Lithuania.</p> <ul style="list-style-type: none"> • However, the decisions are subject to judicial review. Decisions taken by the Commission may be appealed to the Vilnius Regional Administrative Court. • Such an <i>appeal must be heard not later than within 45 days from the date of receipt of the appeal</i>, and an appeal against a decision of an Administrative Court must be heard not later than within 30 days from the date of receipt of the appeal.
18.	(iii) Risk of veto	Describe a topical case. Statistics	Not applicable/information not publicly available.
19.	Role of other national authorities	Indicate if other authorities or administrations (eg, Army or Defence Minister) can get	The FDI clearance procedure may lead to other authorities being involved in the process, including other Member States, as well as the European Commission. ² As indicated above, several authorities have a right to initiate the process.

2 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 (the ‘Regulation’) provides a framework for screening FDI in the EU. It contains various provisions designed to strengthen cooperation between the Member States, such as the implementation of an alert mechanism between Member States and the possibility of requesting opinions from the Commission and from other European competent authorities. As of 1 January 2022, the application documents in the various relevant Member States shall include the notification form required under the Regulation, where an entity in the investor's chain of control is a national of a non-EU state.

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		involved and, if so, how (by the authority or otherwise) and how much influence it may exercise.	
20.	Sanctions	Describe the type of sanctions that may be imposed by the authority in the case of:	<p>If an investor has acquired shares in an undertaking deemed to be of national security importance or has acquired the right to exercise the non-proprietary rights attached to the shares of such an undertaking by concluding a contract for the transfer of voting rights in violation of the requirements of the Law, or if a Government decision has been adopted in respect of the investor assessing that the investor does not comply with national security interests, <i>such an investor shall not be entitled to attend or vote at the general meeting of shareholders of the undertaking.</i></p> <p>If the investor fails to notify the Commission about the investment, screening can be initiated by a number of governmental institutions listed in the Law even long after the transaction is closed.</p> <p>If it is later deemed that the investor does not conform to national security interests, <i>the transaction can be declared null and void.</i></p> <p><i>If the transaction is later challenged in court, it may be unwound not later than within ten years after the person challenging the transaction became aware of the fact that the investor did not conform to national security interests.</i></p>
		<ul style="list-style-type: none"> breach of conditions and/or commitments attached to the approval; and 	
		<ul style="list-style-type: none"> investment carried out without prior approval. 	<p>If the parties choose to proceed with the transaction that the Government assessed to be not in compliance with the interests of national security (as set out in item 11 above) without remedying the identified issues and obtaining a new Government decision permitting the transaction, such a transaction shall be null and void from the moment of entry into force of the Government's decision.</p>

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			If the parties choose to enter into the transaction without applying for the Commission's assessment altogether or if the transaction was entered into while the assessment was ongoing, the transaction is deemed null and void from the moment of entry into the transaction.
21.	Covid – special regime	Please describe specific rules applicable as a result of the Covid-19 pandemic.	A special regime for Covid-19-related matters was not established.